United Nations E/C.12/2016/SR.63

Economic and Social Council

Distr.: General
30 September 2016

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 63rd meeting

Held at the Palais des Nations, Geneva, on Tuesday, 27 September 2016, at 3 p.m.

Chair: Mr. Sadi

Contents

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of the Dominican Republic

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.16-16768 (E) 290916 300916

1616768

Please recycle

The meeting was called to order at 3.05 p.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of the Dominican Republic (E/C.12/DOM/4; E/C.12/DOM/Q/4 and Add.1)

1. *At the invitation of the Chair, the delegation of the Dominican Republic took places at the Committee table.*

2. **Ms. Abreu de Polanco** (Dominican Republic) said that the State party's Constitution of 2010 (amended in 2015) defined the Dominican Republic as a social and democratic State, whose essential function was the effective protection of the rights of the human person. It promised fair treatment for all by the public authorities, so that all individuals might live with dignity. Official statistics showed that monetary poverty in the country had declined markedly in both urban and rural areas over the previous three years, per capita income had risen by an annual average of 3.8 per cent and the Gini coefficient had posted a marked improvement since 2014. Furthermore, the country had met the Millennium Development Goal targets of halving hunger and reducing chronic undernourishment among children.

3. Act No. 1-12 on the National Development Strategy for 2030 stipulated that a human rights approach must be included in all plans, programmes, projects and public policies, with a view to identifying rights violations and contributing to equity and social cohesion. A Directorate-General for Human Rights had been created within the Ministry of Foreign Affairs, and a national human rights plan had been formulated. Through the application of a cross-cutting human rights policy, the State sought to build on the positive outcomes achieved in the sectors of health, education, food, housing and citizens' security. The 2010 Constitution had recognized the importance of the right to water as part of the right to comprehensive health care, and the Government had adopted a number of related initiatives, including sponsoring resolutions submitted to the Human Rights Council and in the Third Committee of the United Nations General Assembly.

4. The Constitutional Court had declared the Act establishing the new Criminal Code — which would have criminalized abortion in all settings — to be unconstitutional and had ordered that the previous Code remain in effect. Accordingly, the proposed amendments held no legal force and Congress was studying a bill to decriminalize abortion in specific cases. It was true that the Dominican Republic had one of the highest rates of adolescent pregnancy in Latin America and the Caribbean, with greatest prevalence among lower income families. Several programmes to tackle the problem had been launched under the National Plan for the Prevention of Teenage Pregnancies, led by the Ministry of Women. Substantial funding had been earmarked for 2016, including US$ 1.65 million for the purchase of contraceptives. Other actions included building the Centre for the Promotion of Comprehensive Adolescent Health, with support from the Korea International Cooperation Agency, and the educational and awareness-raising activities undertaken by the Centre for the Promotion of Sexual and Reproductive Health.

5. In combating poverty and food insecurity among the most vulnerable groups, the Progress with Solidarity Programme aimed to lift over 400,000 families out of extreme poverty, help 1.5 million poor people move into the middle class and provide cash cards to 200,000 new families under the Solidarity conditional cash transfer programme. The Surprise Visits initiative, created by the President, offered disadvantaged groups a variety of measures, such as soft loans for small agricultural producers. The Government's flagship

housing project aimed to regenerate the La Barquita neighbourhood of Santo Domingo, building 1,630 housing units for over 5,500 people, supplemented by commercial premises, health facilities, cultural amenities and transport infrastructure. The Government had set up a fund to help people buy their first home, with emphasis on improving access to financing for lower income groups, and had enacted legislation on affordable housing.

6. The Government was engaged in reforming and modernizing the health-care sector with a plan that drew on the action lines set forth in various national and international instruments and commitments, focusing on maternal and infant mortality, preventable diseases, dengue, malaria, tuberculosis, HIV/AIDS and zoonoses, and based on an approach of strengthening primary health care, raising levels of immunization, and improving access to medicines, care infrastructure and budget implementation.

7. The annual budget of the Ministry of Education had been increased to 4 per cent of gross domestic product (GDP) in 2012. As a result, a national school-building programme had been launched: 29,000 new classrooms would be constructed by the end of 2016 and teaching activities would be extended to eight hours per day. Efforts had continued in implementing the early childhood care programme, which benefited 90,000 children under the age of 5 years, and the national literacy plan, which had enrolled 762,539 people. The State continued to support the development of teaching careers by offering grants for higher technical, graduate and postgraduate study.

8. A survey conducted by the National Statistical Office in 2009-2010 had determined that 304,000 children between the ages of 5 and 17 years were engaged in child labour; that represented a 33 per cent fall over a ten-year period in the proportion of children affected. The Government had launched a number of initiatives designed to eradicate child labour, including a road map and a long-term strategy coordinated by the Ministry of Labour and the National Children's Council.

9. The Government had taken important steps to extend the coverage of social security, to improve the targeting of conditional transfers and to improve education and access to health care and essential medicines. The country had strengthened its democracy and the rule of law thanks to public policies and institutional developments that allowed it to achieve the full enjoyment of economic, social and cultural rights.

10. **Mr. Uprimny** (Country Rapporteur) said that he was pleased to note that the State party had presented its report on time. It had made great strides in the realization of economic, social and cultural rights, notably through the adoption of the 2010 Constitution. Another positive aspect was the country's uninterrupted period of democracy, together with robust and sustained growth. However, a lack of precise information on certain issues suggested a disconnect between human rights policies and the collection of statistics. Institutional ambiguities prevailed regarding the applicability of economic, social and cultural rights, and poverty remained persistently high, in view of the country's per capita GDP. There were also acute problems with socioeconomic inequality and discrimination against persons of Haitian origin, women and the lesbian, gay, bisexual and transgender (LGBT) community.

11. In the light of claims that civil society had not been consulted, the delegation should provide clarification on the approach taken in drafting the report. Secondly, the report and many of the replies to the list of issues focused on institutional and legal developments, but were lacking in statistical data on the impact of programmes and on the effective enjoyment of rights. It was thus unclear how the State party had produced human rights-sensitive statistics, for example through disaggregation by race, gender or sexual orientation, to inform its public policies. A third concern related to the status of the Covenant in the domestic legal order: the Committee wished to receive specific examples of cases in which economic, social and cultural rights had been protected by judges, particularly in light of

the recent problematic judgments of the Constitutional Court. The Committee would also be grateful for further information concerning guarantees of judicial independence, considering that appointments to the Supreme Court of Justice and the Constitutional Court were made by the Council of the Judiciary, whose members were largely drawn from political backgrounds.

12. The State party should also respond to the Committee's questions regarding the mandate of the Office of the Ombudsman, whether that body was empowered to monitor compliance with economic, social and cultural rights, and whether the State party had undertaken any efforts to guarantee its compliance with the Paris Principles. An important issue in terms of institutional recognition of rights and the obligation to provide the maximum of available resources was that of corruption, of which there was a comparatively high level in the State party, according to reports. Given that the replies to the list of issues included only generic responses on preventive measures, the Committee would appreciate information on any specific actions that were envisaged to investigate and sanction cases of high-level corruption.

13. He also wished to know whether and how the State party planned to create a fairer, more progressive tax system with a view to increasing investment in social programmes. Noting that the article of the Constitution which enshrined the right to equality was in a section devoted to civil and political rights, he asked whether a similar provision existed in relation to economic, social and cultural rights. The delegation should describe the Government's stance on the Discrimination Bill and state whether the Bill expressly prohibited all discrimination, in keeping with article 2 (2) of the Covenant. He would also appreciate an update on the status of the bill on comprehensive equality and non-discrimination drafted by the National HIV/AIDS Council in consultation with civil society. It would be helpful to know whether the State party intended to adopt a specific law to combat discrimination against LGBT persons, and what steps it was taking to prevent discrimination on the grounds of sexual orientation or gender identity in the implementation of general laws.

14. He asked whether the Government planned to act on a recommendation of the National Statistics Office to include an ethnic/racial variable in population and housing censuses, which would shed light on the existence or otherwise of discrimination against people of African descent. He also requested details of the measures adopted to restore or grant Dominican nationality to all Haitians who had been stripped of nationality pursuant to Constitutional Court ruling TC/0168/13. The regularization of foreign nationals was particularly important given that article 22 of the Constitution provided that only citizens could report misconduct by public officials. Lastly, noting that women remained underrepresented in high-level positions despite the enactment of a law on quotas, he asked what specific strategies were in place to rectify the situation.

15. **Ms. Bras Gomes** said that she would welcome information on the impact of the State party's strong economic growth on labour market policies and on the size of the informal sector. She sought confirmation of the exact unemployment rate and asked whether it was true that there was a high underemployment rate. If so, it would be useful to hear what changes were envisaged to employment policies and programmes in order to reduce that figure. She wished to know how many free economic zones there were in the State party, how many persons worked in them and whether their labour conditions had been assessed. She would also appreciate a description of the arrangements in place for the implementation of the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). She invited the delegation to comment on whether minimum wages were sufficient, whether the Government had set up a system of indexation and regular adjustment of minimum wages to the cost of living and, if so, when the next review of minimum wages was scheduled to take place.

16. She requested information on measures to promote gender equality in the labour market and women's access to social security, on the level of compliance with the employment quotas for persons with disabilities in the public and private sectors, and on the impact of measures to combat youth unemployment. The delegation should also indicate whether the concept of equal pay for work of equal value was taken into account when salaries and other work-related benefits were determined and what was being done to strengthen work-related anti-discrimination regulations in order to combat all explicit and implicit forms of discrimination in the workplace. She would also be interested to find out whether sexual harassment was a criminal offence and what sanctions were imposed on perpetrators. The delegation should explain whether the requirement that a trade union should represent an absolute majority of the workers in an enterprise or branch of activity in order to bargain collectively had been relaxed. It should also respond to reports that labour inspectorates were underresourced and lacking in authority.

17. It would be interesting to know the extent of social security coverage and what was done to protect persons who did not have access to work-related social security. The delegation should explain if and how the Government adopted a human rights-based approach to the implementation of the Progress with Solidarity programme, whether any thought had been given to the establishment of a social protection floor and, if so, what purpose the programme might serve in that regard. Lastly, she asked why so many Haitian nationals in the country lacked documentation, specifically passports, which impeded efforts to regularize their situation.

18. **The Chair** said that he wished to know to what extent key government officials were aware of the Covenant.

The meeting was suspended at 4.05 p.m. and resumed at 4.35 p.m.

19. **Ms. García** (Dominican Republic) said that the information contained in the reports submitted by the Government to the human rights treaty bodies was validated by a technical advisory team that included representatives of civil society, the Protestant and Catholic Churches, the business sector and trade unions. The National Development Strategy 2030 was evaluated on a regular basis and monitored using a series of indicators. Its second strategic focus was the construction of a society based on equality of rights and opportunities in which the entire population was guaranteed quality education, health care and basic services, and which worked towards the gradual reduction of poverty and social and regional inequality.

20. **Ms. Abreu de Polanco** (Dominican Republic) said that, pursuant to article 74 of the Constitution, human rights treaties, covenants and conventions signed and ratified by the Dominican Republic had constitutional status and were immediately and directly applicable by the courts and other public bodies. The Council of the Judiciary, which had been established in 1996 and was responsible for the appointment of judges, comprised the President of the Republic, the President of the Senate, a senator from an opposition party, the President of the Chamber of Deputies, a deputy from an opposition party, a secretary from the Supreme Court of Justice and the Attorney General. In the past, the general public had been invited to participate in the appointment process.

21. Although the law on the establishment of the Office of the Ombudsman had been enacted in 2001, the Ombudsman had not been appointed until 2013. The person who held the post was a woman who enjoyed a high level of credibility. The Office's role was limited to issuing recommendations, but it had administrative and budgetary autonomy.

22. **Ms. Liriano De la Cruz** (Dominican Republic) said that poverty and inequality could not be ascribed solely to corruption; they were structural problems. Nevertheless, the current president had made government and personal corruption a priority from the outset of his presidency and, while he was adamant that the executive branch should not intervene

in the work of the judicial branch, he had announced that every effort would be made to avoid impunity. A series of measures had been adopted to monitor and reduce corruption: the Directorate-General of Governmental Ethics and Integrity had been strengthened, ethics and transparency units, each with a box for anonymous tip-offs, had been introduced in all government agencies and a government procurement office had been established. In addition, watchdog groups made up of persons who were not members of the civil service had been formed. Broad national consultations had been held between 2010 and 2012, leading to the formulation of the National Development Strategy 2030, whose chief objective was to expand the middle class through changes to taxation, education and energy policy.

23. **Ms. Abreu de Polanco** (Dominican Republic) said that constitutional provisions on discrimination applied to everyone under the jurisdiction of the Dominican Republic, not only its own nationals. The Criminal Code contained only two articles penalizing discrimination and there was no government policy on the topic, but the human rights unit of the Attorney General's Office was working in conjunction with civil society to draft an anti-discrimination bill.

24. **Ms. Paulino Gómez** (Dominican Republic) said that the 33 per cent quota for women on electoral lists required by legislation had been achieved.

25. **Ms. Alcántara** (Dominican Republic) said that the Ministry of Women had adopted measures to address the gender pay gap and workplace harassment, including the introduction of an equality certificate, to be awarded to businesses in both the private and public sectors that achieved good results in that area. In addition, the Ministry of Labour had run nearly 50 workshops dealing with harassment. Progress with Solidarity was a comprehensive programme that provided allowances and guidance to families living in extreme poverty. Available assistance included help to set up a small business, cover medical costs and bring products to market.

26. **Ms. García** (Dominican Republic) said that families were identified for participation in the Programme through the hunger and poverty maps designed by the Ministry of the Economy, Planning and Development. The Programme had expanded over time to also provide electricity and gas subsidies, as well as conditional education grants, aimed at reducing child labour.

27. **Ms. Abreu de Polanco** (Dominican Republic) said that the Programme had served as a model in a number of other countries in Central America. The social security system consisted of a contributory scheme paid into by salaried workers and employers and a subsidiary scheme financed by the Government to cover disadvantaged and older persons and persons with disabilities.

28. **Mr. Uprimny** welcomed the development of a bill on discrimination. He requested examples of instances where the Covenant had been invoked before the courts and of corruption cases in which legal action had been taken. He asked whether the Office of the Ombudsman had the authority to monitor the situation of economic, social and cultural rights and what steps were being taken to ensure that the Office was in line with the Paris Principles.

29. **Ms. Abreu de Polanco** (Dominican Republic) replied that the Ombudsman had the authority to monitor all human rights and that its accreditation process was under way. Judges did not invoke the Covenant directly because international instruments were incorporated into domestic law.

30. **Ms. Liriano De la Cruz** (Dominican Republic) said that it was not the role of the executive branch to prosecute and punish; therefore, while it could confirm that some

former civil servants were being investigated for possible acts of corruption, the delegation was not in a position to provide any further details.

31. **Mr. Uprimny** stressed that the purpose of the dialogue was to assess how the Covenant was being implemented by the State party as a whole, not merely the executive branch. Accordingly, if data were available on corruption proceedings, they should be shared with the Committee.

32. **Mr. Dasgupta** asked how many cases of sexual violence against children had been investigated and how many prosecutions and convictions had resulted. He said he would be interested to hear whether the absence of a minimum age of consent was an obstacle to prosecuting sexual offences against children and if the Government planned to introduce a minimum age of consent into the Criminal Code. Was the Government contemplating revoking the Catholic clergy's immunity from arrest and prosecution, so that all persons who committed heinous acts, such as the sexual abuse of small children, could be brought to justice?

33. Noting the prevalence of child labour and the high number of children engaged in hazardous work, he would welcome information on the impact of the National Strategic Plan against Child Labour 2006-2016 and the 2014 Plan for the Permanent Eradication of Child Labour and whether the Government intended to raise the minimum age for work. He would also like to know what was being done to reduce poverty, to improve access to clean water and sanitation services in rural areas and to increase the proportion of GDP devoted to health services, including for the provision of generic antiretroviral drugs for persons with HIV/AIDS. Lastly, noting that the Constitutional Court in the Dominican Republic had struck down the law permitting abortions in certain situations, he asked how the State party intended to comply with its obligations under the Covenant. Criminalization of abortion was a gross violation of women's and girls' right to sexual and reproductive health and led to higher rates of maternal mortality, particularly among teenage girls.

34. **Mr. Mancisidor de la Fuente** said that he had been struck by the absence of data in the State party report and had not been able to find the relevant information on the United Nations Educational, Scientific and Cultural Organization (UNESCO) or World Bank websites either. Was that due to the State party's reluctance to share such information or to a lack of data collection in the country? He had nevertheless noted that only 4 per cent of GDP was spent on education, a figure below the global average, and he encouraged the Government to invest more in education. The delegation should indicate whether the school curriculum addressed human rights, whether teaching materials that promoted certain gender stereotypes were being phased out and whether the Government was ensuring the provision of sexual education, particularly in the light of the high number of adolescent pregnancies. The delegation should also provide information on any efforts to encourage women to study subjects such as mathematics, science and engineering at university and on the number of women researchers and scientists.

35. Turning to the country's history of slavery and migration from Africa, he asked what measures were being taken to raise awareness of that history and cultural tradition. Lastly, he asked whether the State party was considering the ratification of the Optional Protocol to the Covenant.

36. **Mr. Uprimny** said that, in spite of legislation to improve the gender balance in public office, women were still underrepresented in Congress. Was the Government exploring other ways to improve the representation of women in politics?

37. **Ms. Bras Gomes**, noting that the Government had taken measures to promote gender equality and combat gender stereotypes, asked what structural obstacles were preventing progress in that area.

38. **Mr. Pillay** said he would like to hear about any measures the Government was taking to address the growing shortage of social housing for disadvantaged and marginalized groups and to improve the deplorable living conditions endured by Haitian migrants on sugarcane plantations. Keeping in mind the Committee's general comment No. 7: The right to adequate housing (article 11 (1) of the Covenant): forced evictions, the delegation should clarify whether persons who were forcibly evicted were offered alternative accommodation or compensation and whether the country's legislation was in line with international guidelines on forced evictions.

39. **The Chair** said he was concerned by the disproportionately severe penalties for drug trafficking, as well as the harsh living conditions in prison, and asked whether the Government was taking measures to address those issues. He would also like to know whether the Government was conducting any campaigns to raise awareness of cardiovascular disease or to prevent smoking.

40. **Ms. Abreu de Polanco** (Dominican Republic) said that political parties were legally obliged to ensure that one third of their candidates were women, but elections were free and voting secret and, unfortunately, voters did not always favour women. The Government might need to consider further increasing the number of women candidates required.

41. **Ms. Liriano De la Cruz** (Dominican Republic) said that a bill on participation, which would raise the political profile of women, was currently under discussion.

The meeting rose at 5.55 p.m.